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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,900	09/19/2001	Makoto Inoue	01309.00015	2911

7590

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EXAMINER

CUFF, MICHAEL A

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/936,900

**Applicant(s)**

INOUE ET AL.

**Examiner**

Michael Cuff

**Art Unit**

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-27,29,30,32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-27, 29, 30, 32, and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-27, 29, 30, 32, and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Simonetti.

Simonetti shows that two databases (customer database and distribution database) could be combined into a single table by adding two columns for storing the information specifying the distribution center and regional center to database table 10. It should be noted that database 20 which includes one record for each order placed in the present example would be expected to have many more records than database 10 which, contains one record per city. Combining the two databases would provide a single database (automated means) that could be more efficiently searched; however, the duplication of the information from the smaller database 20 in the large customer database 10 would significantly increase the memory or disk space needed to store the database. It should be noted that all customers have an ID (this includes distributors and suppliers). A known route associated with your customer ID is considered to be a predetermined setting. The ordering means are independent from the route determining means. The routes are specified, identified, and separated by nodes. Part of any one given route has a supply part and a final delivery part, which are separated by nodes.

***Response to Arguments***

Applicant's arguments filed 11/28/05 have been fully considered but they are not persuasive.

Applicant asserts that, "Simonetti does not select merchandise distribution routes based on the merchandise ordered and the available suppliers and distributors. Instead, a distribution center is selected based on the customer's address." This is not relevant. There is no claim language for "selecting". The prior shows a route where the beginning of the route is determined by where the category and quantity of the product is and the end of the route is determined by the customer's location. This route is identified, specified, and is separated by nodes. This meets the metes and bounds of the actual claim language.

Applicant asserts that Simonetti does not teach separating or identifying routes. The prior shows a route where the beginning of the route is determined by where the category and quantity of the product is and the end of the route is determined by the customer's location. This route is identified, specified, and is separated by nodes. This meets the metes and bounds of the actual claim language.

Applicant asserts that Simonetti does not allow selection of the routes. The same argument, as above, about language not being in the claims applies.

To aid in the prosecution, the examiner is providing four definitions from Webster's Collegiate Dictionary. Hopefully, this will further explain why the examiner does not consider specifying, identifying, and separating to mean the same as selecting.

Select – to choose from a number or group by fitness or preference.

Specify – to name or state explicitly or in detail.

Identify – to establish the identity of.

Separate – to set or keep apart.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (571) 272-6778. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Michael Cuff 3/17/06*  
Michael Cuff  
March 17, 2006